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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

PERCY GARRETT (#133126)

DOCKET NO. 11-CV-1494; SEC. P

VERSUS

JUDGE DEE D. DRELL

LT. HAYS, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION

Plaintiff Percy Garrett, an inmate at the Winn Correctional Center (WNC), filed a pro se civil rights complaint (42 U.S.C. §1983) on July 28, 2011. [Doc. #1] He failed to submit a filing fee or properly completed application to proceed in forma pauperis. On August 19, 2011, the Court issued a memorandum order instructing Plaintiff that he had thirty days to correct the deficiency. [Doc. #3] To date, Plaintiff has failed to comply with the Court's order.

Federal Rule of Civil Procedure Rule (FRCP) 41(b) permits dismissal of claims "for failure of the plaintiff to prosecute or to comply with ... any order of court...." The district court also has the inherent authority to dismiss an action *sua sponte*, without motion by a defendant. See Link v. Wabash R.R.Co., 370 U.S. 626, 630-31, 82 S.Ct. 1386, 1388-89, 8 L.Ed.2d 734 (1962). "The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts."

McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir.1988).

Plaintiff has failed to respond to the order to submit the filing fee or properly completed pauper application.

Therefore,

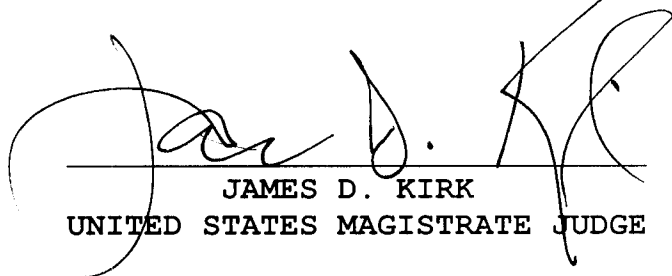
**IT IS RECOMMENDED** that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE** in accordance with the provisions of Rule 41(b) of the Federal Rules of Civil Procedure.

Under the provisions of 28 U.S.C. §636(b)(1)(C) and Fed.R.Civ.Proc. 72(b), parties aggrieved by this recommendation have fourteen (14) business days from service of this report and recommendation to file specific, written objections with the clerk of court. A party may respond to another party's objections within fourteen (14) days after being served with a copy thereof.

**Failure to file written objections to the proposed factual findings and/or the proposed legal conclusions reflected in this Report and Recommendation within fourteen (14) days following the date of its service, or within the time frame authorized by Fed.R.Civ.P. 6(b), shall bar an aggrieved party from attacking either the factual findings or the legal conclusions accepted by the District Court, except upon grounds of plain error. See Douglass v. United Services Automobile Association, 79 F.3d 1415 (5th Cir. 1996).**

**THUS DONE AND SIGNED** at Alexandria, Louisiana, this 5th

day of October, 2011.



A handwritten signature in black ink, appearing to read "James D. Kirk", is written over a horizontal line. Below the line, the name and title are printed in a serif font.

JAMES D. KIRK  
UNITED STATES MAGISTRATE JUDGE